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REMARKS/DISCUSSION OF ISSUES

Applicants appreciate the many courtesies shown by the Examiner during the May 2, 2006 interview. Although no agreement was reached, Applicants are confident that prosecution has been advanced.

In the Office Action, the Examiner rejected pending claims 1-25 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,629,082 to *Hambrecht et al.* in view of certain images identified as originating on the ebay.com website. Applicants traverse this rejection and respectfully request reconsideration and further examination of the present application under 37 CFR § 1.112.

Initially, Applicant traverses the use of the "eBay" images, as the images facially indicate that the Examiner has not provided the entire document since the typewritten page numbers in the lower right hand corner are not consecutive. If the Examiner intends to rely on these images in a rejection, Applicant asks that the entire document "Information on eBay, Inc." be produced. As the Examiner is well aware, rejections must be based on the entirety of a document. A prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention. See, MPEP §2141.03. By including only selections from a document, the Examiner has reduced Applicant's ability to respond to these rejections. Applicant notes that the document would appear to have more than 75 pages, although the Examiner has only produced 9. Applicant requests that the Examiner either withdraw all rejections premised on the eBay document, or produce each and every page of the document to enable Applicant to fully determine the Examiner's grounds for the rejections.

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Furthermore, however, the combination of Hambrecht and "eBay" fails to teach or suggest each and every element of the claims, and therefore the §103(a) rejection fails. Specifically, the references alone or in combination fail to teach or suggest "sending the supplier the purchaser enhanced certificate from the aggregate exchange server, and sending the purchaser the supplier enhanced certificate from the exchange server, if the bid matches the offer" as claimed in claims 1, 11 and 21. The Examiner correctly does not rely on Hambrecht for any such teaching, and instead relies on the eBay images for support for such a teaching.

Hambrecht teaches an auction system and method for pricing and allocation during capital formation, while the eBay auction website provides consumer-to-consumer auctions. eBay specifically, and unequivocally, teaches that the "Feedback Ratings empower users to make an informed choice about someone they plan to do business with. So before *bidding on an item*, check out the Feedback Profile of the seller." See, page 6 of the document "Information on eBay, Inc." captioned with a handwritten "3" as produced by the Examiner (emphasis added). eBay further teaches (on the same page) the desirability of "Get to Know Your Trading Partner" and the desirability of establishing "a reputation through the use of our Feedback Forum" allowing users to "build up their reputation in the eBay community and earn the trust and respect of others in the community."

Such a teaching unequivocally teaches away from the claimed "sending the supplier the purchaser enhanced certificate from the aggregate exchange server, and sending the purchaser the supplier enhanced certificate from the exchange server, if the bid matches the offer". Such a claim element can only be satisfied if the purchaser and supplier *do not know each other's identity until a bid is matched with an offer*. If the purchaser and supplier do not know the other's identity, the taught feedback system is of questionable utility. Additionally, "eBay" specifically teaches the desirability of checking out a seller's Feedback Profile *before bidding on the item*, as noted above. Applicant further notes that the claim preamble specifically requires that the transaction be anonymous – the opposite of the eBay teachings.

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Hambrecht does not cure this defect of "eBay." In fact, Hambrecht further teaches away from the instant claims. While Hambrecht does not teach that the entity being formed with the capital formation needs to know the identity of the investors, Hambrecht clearly teaches that the inventors need to know the identity of the entity being formed. For example, see the abstract:

Techniques are provided for an auction system that is used for pricing and allocating equity securities. Information about an offering to accept bids for equity shares is provided to qualified potential purchasers and non-qualified potential purchasers. Bids from potential purchasers for equity shares

Additionally, even if at least one of the references *did* teach each and every claim element (which Applicant does not concede), the combination of Hambrecht and "eBay" still fails, as there is no motivation to combine these references. Neither Hambrecht nor "eBay" denounce as less than perfect an auction system in which at least one party knows the identity of the other party prior to bidding. Furthermore, neither reference teaches the desirability of an anonymous auction.

Indeed, the mere fact that either reference can be modified as suggested by the Examiner does not render the resultant modification obvious unless the prior art also suggests the desirability of the combination. See, In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (Claims were directed to an apparatus for producing an aerated cementitious composition by drawing air into the cementitious composition by driving the output pump at a capacity greater than the feed rate. The prior art reference taught that the feed means can

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be run at a variable speed, however the court found that this does not require that the output pump be run at the claimed speed so that air is drawn into the mixing chamber and is entrained in the ingredients during operation. Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (flexible landscape edging device which is conformable to a ground surface of varying slope not suggested by combination of prior art references).

Claims 2-10, 12-20 and 22-25 depend directly or indirectly from one of claims 1, 11, or 21, and are therefore patentable over the references for at least the same reasons.

Withdrawal of the rejections to claims 1-25 is requested.

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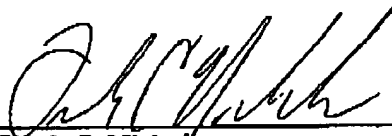
CONCLUSION

The Applicants respectfully submit that claims 1-25 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

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Respectfully Submitted,
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